

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:

Downey, Danielle Lynn

Debtor(s).

CASE NO. 18-62284

CHAPTER 7

CHIEF JUDGE RUSS KENDIG

**MOTION TO VACATE ORDER GRANTING
APPLICATION TO WAIVE CHAPTER 7 FILING FEE**

Now comes Lisa M. Barbacci, Chapter 7 Trustee (“Trustee”), and hereby move this Court to vacate its Order Granting Application to Waive the Chapter 7 Filing Fee entered on November 15, 2019 (Docket No. 6) (“Order”).

The Court waived the filing fee stating that the “Debtor cannot afford to pay the filing fee in installments” and made its order “subject to being vacated at a later time if developments in the administration of the bankruptcy case demonstrate that the waiver was unwarranted.”

At the 341 meeting held on February 19, 2019, Ms. Downey testified that she has indeed received a federal tax refund in excess of \$7,000 and does have funds to pay the \$335 filing fee.

It is the Trustee’s position that the waiver is unwarranted in light of the developments in this case that Ms. Downey has received over \$7,000 just shortly after filing for chapter 7 bankruptcy relief and she should be required to pay the \$335 filing fee. Accordingly, this Court’s earlier order waiving the obligation to pay filing fee should be vacated.

Therefore, the Trustee moves the Court to grant this motion and vacate the Order Granting Application to Waive the Chapter 7 Filing Fee (Docket No. 6) and direct the Debtor(s) to pay the \$335 filing fee.

Respectfully submitted,

/s/Lisa M. Barbacci

Lisa M. Barbacci (0039392)

P.O. Box 1299

Medina, Ohio 44258-1299

330-722-4488

barbaccitrustee@gmail.com

CHAPTER 7 TRUSTEE

NOTICE OF MOTION TO VACATE ORDER

Lisa M. Barbacci, Trustee, has filed papers with the court in order to vacate the Order waiving filing fees.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to authorize this motion, or if you want the court to consider your views on the Motion, then **on or before March 21, 2019**, you or your attorney must:

File with the court a written request for a hearing {or, if the court requires a written response, an answer explaining your position} at:

Bankruptcy Clerk of Court
Ralph Regula Federal Building and U.S. Courthouse
401 McKinley Ave SW
Canton, OH 44702-1745

If you mail your request/response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

| | | |
|-----------------------|-----|--------------------------------|
| Lisa M. Barbacci | and | Office of the U.S. Trustee |
| Chapter 7 Trustee | | H.M. Metzenbaum Courthouse |
| P. O. Box 1299 | | 201 Superior Ave. E., Ste. 441 |
| Medina, OH 44258-1299 | | Cleveland, Ohio 44114-1240 |

Attend the hearing scheduled to be held on **March 25, 2019, at 3:00 PM** in the **Courtroom** of the **United States Bankruptcy Court, Ralph Regula Federal Building and US Courthouse, 401 McKinley Ave. SW, Canton, OH 44702.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

Date: February 27, 2019

/s/Lisa M. Barbacci
Lisa M. Barbacci, Chapter 7 Trustee

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was electronically transmitted on February 27, 2019, via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice List:

Lisa M. Barbacci barbaccitrustee@gmail.com, lbarbacci@ecf.epiqsystems.com
Kenneth L. Sheppard ken@sheppardlawoffices.com, karen@sheppardlawoffices.com;
r48355@notify.bestcase.com; jennifer@sheppardlawoffices.com
United States Trustee (Registered address)@usdoj.gov

And mailed by regular U.S. Mail on February 27, 2019, to the following parties:

Danielle Lynn Downey
724 HIGH AVENUE SW
CANTON, OH 44707

/s/Lisa M. Barbacci
Lisa M. Barbacci, Chapter 7 Trustee